



City of Seattle

Department of Planning and Development

D. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3013870

Applicant Name: Bradley Khouri

Address of Proposal: 2244 Fairview Avenue E

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow a three story, 4-unit row house structure with surface parking for 3 vehicles. Existing structure to be removed.

Public notice for the project stated that SEPA review was required. DPD determined during review that the project was exempt from SEPA review.

The following approvals are required:

Shoreline Substantial Development Permit – (SMC Chapter 23.60) to allow multi-family residential in the Urban Stable (US) shoreline environment.

SEPA Determination: ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Subject Site and Vicinity

The subject parcel is located on the eastern side of Lake Union approximately 100 feet from the lake's edge in a Lowrise Residential 2 (LR2) multi-family zone. Currently, there is one single-family residence on the property. The shoreline environment designation for the lot is Urban Stable (US). To the west of the subject property is Fairview Ave E Lake Union waterfront with floating home moorage facilities. To the immediate north, east, and south there are a mix of single and multifamily residences.

Proposal Description

The project proposal is to demolish an existing family residence and a new four-unit three-story residence. A Shoreline Substantial Development Permit (SSDP) is required for all non-exempt development in the Shoreline Environment. While SMC 23.60.020.C.6 generally exempts one owner-occupied single-family residences from this requirement, the proposed development does not qualify for this exemption.

Public Comment

One comment was received during the comment period, which ended on April 12, 2013.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposal is located within the Urban Stable (US) Shoreline Environment as designated by the Seattle Shoreline Master Program (SSMP). The Shoreline Master Program, Chapter 23.60 of the Seattle Municipal Code, regulates use and development in the City's shoreline districts to implement the policy and provisions of the Shoreline Management Act of 1971 and the Shoreline Goals and Policies.

The SSMP requires that a shoreline permit be obtained prior to the undertaking of any substantial development within a shoreline environment. SMC Section 23.60.030 includes criteria for evaluating a shoreline permit. A substantial development permit shall be issued only when the development proposed is consistent with:

- A. The policies and procedures of Chapter 90.58 RCW;
- B. The regulations of this Chapter; and
- C. The provisions of Chapter 173-27 WAC.

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW

The State of Washington Shoreline policies (RCW Chapter 90.58) provide for the control of pollution and prevention of damage to the natural environment, and for the protection of the resources and ecology of the shoreline over the long term. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. The Shoreline Management Act of 1971 provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60 that also incorporates the provisions of Chapter 173.27 WAC. Development on the shorelines of the State is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The City of Seattle Shoreline policies incorporate these goals by reference and include area objectives pursuant to these goals. These policies contemplate protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting public rights of navigation and corollary incidental rights.

Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

As discussed below. This proposal is consistent with the policies and procedures of the RCW Chapter 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

The regulations of SSMP Section 23.60.064 require that the proposed use: 1) conform to all applicable development standards of both the shoreline environment and underlying zoning; 2) be permitted in the shoreline environment and the underlying zoning district; 3) satisfy the criteria of shoreline variance, conditional use, and/or special use permits as may be required; and 4) SMC 23.60.014 C. for standards applicable to environmentally critical areas as provided in Seattle Municipal Code Chapter 25.09, Regulations for Environmentally Critical Areas, as applicable in the Shoreline District. If there are any conflicts between the Seattle Shoreline Master Program and Seattle Municipal Code Chapter 25.09, the most restrictive requirements shall apply.

The proposed four unit residence is proposed for an area designated as Urban Stable (US). The purpose of this shoreline environment is to:

- (1) Provide opportunities for substantial numbers of people to enjoy the shorelines by encouraging water-dependent recreational uses and by permitting nonwater dependent commercial uses if they provide substantial public access and other public benefits,
- (2) Preserve and enhance views of the water from adjacent streets and upland residential areas,
- (3) Support water-dependent uses by providing services such as marine-related retail and moorage.

Since this project is on an upland lot and is physically separated from Lake Union by a two-lane street (Fairview Ave E), it will have no negative effect on the goals listed above.

Development Standards

The proposal is to demolish an existing single-family residence and construct a four unit rowhouse in the Shoreline District within an Urban Stable Environment designation. This proposal is permitted outright by SMC 23.60.608.A.2.a.1 and subject to the following development standards:

1. *The general development standards for all shoreline environments (SSMP 23.60.152); and*
2. *The development standards for uses in the US environment (SSMP 23.60.630-642);*

General Development Standards for all Shoreline Environments (SMP 23.60.152)

The general standards listed in SMC 23.60.152 apply to all uses in the shoreline environment. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. These general standards of the SMP state, in part, that all shoreline development and uses shall:

- protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- not release oil, chemicals or other hazardous materials onto or into the water
- be located, designed, constructed, and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas, including but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes;
- be located, designed, constructed and managed to minimize interference with, or adverse impacts to, beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion;
- be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and
- be located, constructed, and operated so as not to be a hazard to public health and safety.

The proposal involves constructing a four-unit rowhouse. All construction is outside of the 100-foot shoreline habitat buffer as defined in the City of Seattle's environmentally critical areas regulations. Fairview Avenue East separates the lake from the development site. Because of the distance between the lake and the building site, direct or indirect adverse impacts are not expected from the construction or use of the proposed building.

Site grading and preparation for construction may expose soil leading to increased potential for soil erosion and sedimentation. However, required compliance with the Grading Code (SMC Chapter 22.170) will ensure that soil erosion control techniques are in place for the duration of the land disturbing activities until the site is permanently re-stabilized. In addition, the Stormwater Code (SMC Chapter 22.800) requires developments to implement stormwater management measures to protect receiving waters from pollution, mechanical damage, excessive flows and other conditions that could be detrimental to water resources and aquatic life. The project proposes a permeable driveway surface that will collect roof runoff.

Development Standards for US Environment (SMC 23.60.608A.2 a.1 and SMC 23.60.630-642)

Pursuant to SMC 23.60.608.A.2.a.1, multi-family residences are allowed outright in upland (non-waterfront) lots. The development standards set forth in SMC 23.60.630-642 for the Urban Stable Shoreline Environment regulate height, lot coverage, view corridors and public access. The project proposal has been reviewed and meets the development standards for the US Environment.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Thus the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

Summary

Adverse impacts to the shoreline environment are not expected and the proposed multifamily building will be consistent with the provisions set forth by 90.58 RCW, 173-27 WAC, and Chapter 23.60 SMC also known as the Seattle Shoreline Master Program (SMP).

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The Shoreline Substantial Development Permit is **GRANTED.**

CONDITIONS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

None

Signature: _____ (signature on file) Date: July 1, 2013
Ben Perkowski, Senior Land Use Planner
Department of Planning and Development

BP:drm

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